

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2004-334-C - ORDER NO. 2005-124  
MARCH 16, 2005

IN RE: Application of Symtelco, LLC for a	) ORDER
Certificate of Public Convenience and	) GRANTING
Necessity to Provide Local, Interexchange,	) CERTIFICATE,
Operator, Collect-Only Inmate and Payphone	) APPROVING MODIFIED
Telecommunications Services.	) ALTERNATIVE
	) REGULATION AND
	) FLEXIBLE
	) REGULATION

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Symtelco, LLC (“Symtelco” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide local, interexchange, operator, collect-only inmate and payphone telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2004) and the general regulatory authority of the Commission. By its Application, Symtelco also requests modified alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997, flexible regulation of its local service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, and requests waiver of certain Commission regulations.

The Commission's Docketing Department instructed Symtelco to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Symtelco and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Symtelco complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

A hearing was convened on March 3, 2005, at 11:30 a.m. in the Commission's Hearing Room, Columbia, South Carolina. The Honorable Randy Mitchell, Chairman, presided. Symtelco was represented by John J. Pringle, Jr., Esquire. The Office of Regulatory Staff (ORS) was represented by C. Lessie Hammonds, Esquire and Wendy B. Cartledge, Esquire.

Greg Hogan, President of the Company, appeared and testified in support of the Application. The record reveals that Symtelco is incorporated in Georgia as a limited liability company and registered to transact business in South Carolina as a foreign corporation. According to Mr. Hogan, Symtelco proposes to operate as a reseller of intrastate interexchange telecommunications services to the public on a statewide basis and to offer resold long distance service primarily to businesses, including collect-only telephone services to confinement institutions. Service will also be provided to payphone providers providing pay telephone service as regulated by the Commission.

Symtelco's services will be offered twenty-four hours per day, seven days a week. It does intend to employ sales agents. Mr. Hogan explained the Company's

request for authority, and the record further reveals the Company's services, operations, and marketing procedures.

Mr. Hogan also discussed Symtelco's technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Mr. Hogan offered that Symtelco possesses sufficient financial resources to support its operations in South Carolina. With regard to management and technical capabilities, the Company has not been denied a license in any of the states in which it has applied, has had no licenses revoked in any jurisdictions, nor has it been the subject of any investigations by any governmental regulatory agencies. The Company's Application and Mr. Hogan's testimony both evidence that Symtelco's management team has extensive experience in both marketing and communications. Mr. Hogan also testified that Symtelco will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Hogan offered that approval of Symtelco's Application would serve the public interest by increasing the level of long distance competition in South Carolina. Mr. Hogan, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Reg. 103-610 and to be allowed to keep the Company's books at its headquarters in Georgia. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (USOA). Symtelco maintains its books in accordance with Generally Accepted Accounting Principles (GAAP). In addition, the Company requests that it not be required to publish local exchange directories, and therefore requests waiver of 26 S.C. Code Ann. Reg. 103-631. Symtelco will make arrangements with the incumbent local exchange

carriers to include its customers in the incumbent's directories. Lastly, Symtelco requests a waiver of 26 S.C. Code Ann. Reg. 103-612.2.3, which would require Symtelco to file a map showing its certificated area. Symtelco plans to offer service throughout the BellSouth area.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Symtelco is organized under the laws of the State of Georgia as a limited liability company and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Symtelco has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.

3. Symtelco desires to operate as a reseller of interexchange and local telecommunications services in South Carolina, providing among other services local, interexchange, operator, collect-only inmate and payphone telecommunications services.

4. We find that Symtelco possesses the managerial experience and capability to operate as a non-facilities based reseller of interexchange and local services in South Carolina.

5. We find, based on the financial records and balance sheets submitted by the Company, that Symtelco possesses sufficient financial resources to provide the services as described in its Application.

6. We find that the issuance of a Certificate of Public Convenience and Necessity to Symtelco to operate as a reseller of interexchange, local, operator, collect-only inmate and payphone telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of long distance competition in South Carolina, by providing an alternative for long distance, local, operator, collect-only inmate and payphone telecommunications services, and by increasing consumer awareness of options and services available, thereby encouraging growth and success of competitive services.

7. Symtelco has no plans to maintain offices in South Carolina and requests a waiver of 26 S.C. Code Reg. 103-610. The Commission finds Symtelco's requested waiver reasonable and understands the difficulty presented to Symtelco should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Reg. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable. Additionally we find that waivers of 26 S.C. Code Ann. Regs. 103-631 and 103-612.2.3 are reasonable and in the public interest.

8. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280(B)(1)(Supp. 2004).

9. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280(B)(3)(Supp. 2004).

10. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4)(Supp. 2004).

11. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2)(Supp. 2004).

12. The Commission finds that the provision of local exchange service by the Company “does not otherwise adversely impact the public interest.” S.C. Code Ann. Section 58-9-280(B)(5)(Supp. 2004).

13. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition (SCTC), the SCTC withdrew its opposition to the Application.

### **CONCLUSIONS OF LAW**

1. The Commission concludes that Symtelco possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that Symtelco will participate in the support of universally available telephone service at affordable rates to the extent that Symtelco may be required to do so by the Commission.

3. The Commission concludes that Symtelco will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of Symtelco’s Application to provide intrastate telecommunications services within South Carolina will serve the

public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

5. The Commission concludes that the provision of telecommunications service by Symtelco will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services as requested by Symtelco and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Symtelco to provide intrastate interexchange, local, operator, collect-only inmate and payphone telecommunications services.

8. The Commission concludes that Symtelco's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to

AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

9. With regard to the residential interexchange service offerings of the Company, the Commission adopts a rate design that includes only maximum rate levels for each tariff charge. The Commission has previously adopted a rate structure incorporating maximum rate levels. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). With regard to residential interexchange service rates, the Company shall not adjust its residential interexchange service rates below the approved maximum levels without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish notice of such changes, and file affidavits of publication with the



Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances that do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. Section 58-9-540(Supp. 2004).

10. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

11. With regard to the provision of inmate calling service for local and intraLATA calling, Symtelco shall not charge rates any greater than the rates and charges by the local exchange company at the time a call is placed. For intraLATA calling, Symtelco shall charge rates not greater than AT&T's charges and operator station usage rates at the time the call is placed. Additionally, automated collect calls shall only be completed with the affirmative acceptance by the called party. Also, the Company shall not impose any subscriber surcharges on calls originating from inmate facilities. For inmate calling service, call detail information submitted to the local exchange company for billing purposes must include the Payphone Service Provider (PSP) access line telephone number as assigned to the line by the local exchange company. We would note that Symtelco has requested and we hereby grant certification to provide payphone telephone services as requested in the Company's Application, including, but not limited to local and long distance services, directory assistance, directory listing, long distance, toll free, operator usage, inmate institutional operator assistance, prepaid inmate institutional usage, and switched and dedicated access services. Symtelco has also requested, and we hereby grant waivers of various Payphone Service Provider Guidelines as previously promulgated by this Commission, particularly "Information and Posting Requirements" (Guidelines 1-13) and Guidelines 14-17, 19, and 20 since the payphones will be used for collect-only inmate services. All remaining published PSP Guidelines shall be applicable, as shall be all applicable PSP reporting requirements.

12. With regard to the provision of operator services, the Company's final tariff shall indicate that the maximum rates for operator service charges and surcharges

will not exceed those rates mandated by Commission Order No. 2001-997 issued in Docket No. 2000-407-C.

13. We conclude that Symtelco's request for waiver of 26 S.C. Code Regs 103-610 should be granted as strict compliance with the regulation would cause undue hardship on Symtelco. We also grant exemption from the policies requiring the use of USOA. In addition, we grant waiver of 26 S.C. Code Ann. Reg. 103-631 which requires publication of a local telephone directory, and 26 S.C. Code Ann. Reg. 103-612.2.3, which would require Symtelco to file with the Commission a map showing its certificated area.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Symtelco to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission, as well as to provide local, operator, collect-only inmate, and payphone telecommunications services within the State of South Carolina.

2. The Company's rate designs for its products shall comport to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, Symtelco shall file its revised tariff and an accompanying price list for any applicable

rates within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. Symtelco is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. Symtelco shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Symtelco changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, Symtelco shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Symtelco shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. Symtelco shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Symtelco shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at [www.psc.state.sc.us/reference/forms.asp](http://www.psc.state.sc.us/reference/forms.asp). The title of this form is "Annual Report for Interexchange Companies." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1<sup>st</sup>**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **October 1<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the Commission's website at [www.psc.state.sc.us/reference/forms.asp](http://www.psc.state.sc.us/reference/forms.asp), and the appropriate form is entitled "Gross Receipts for Utility Companies."

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Symtelco shall file the names, addresses and telephone numbers of these representatives

with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at [www.psc.state.sc.us/reference/forms.asp](http://www.psc.state.sc.us/reference/forms.asp); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, Symtelco requested a waiver of 26 Code Reg. 103-610 (Supp. 2004), which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The record reveals that Symtelco’s principal headquarters will be located outside of South Carolina. Symtelco requests permission to maintain its books and records at its headquarters in its home office. The Commission finds Symtelco’s requested waiver reasonable and understands the difficulty presented to Symtelco should the waiver not be granted. The Commission therefore grants the requested waiver that Symtelco be allowed to maintain its books and records at its principal headquarters. However, Symtelco shall make available its books and records at all reasonable times upon request by the Commission or the Commission Staff, and Symtelco shall promptly notify the Commission if the location of its books and records changes.

12. Symtelco also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA). The USOA was developed by the FCC as a means of

regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Symtelco maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers. Moreover, Symtelco asserts that because it utilizes GAAP, the Commission will have a reliable means by which to evaluate Symtelco's operations and assess its financial fitness. Accordingly, Symtelco hereby requests an exemption from the USOA requirements. We grant the Company's request for the reasons stated above. We also grant the Company's request to waive 26 S.C. Code Ann. Regs. 103-631 and 103-612.2.3, because of the unusual difficulty that the Company would have in complying with these regulations.

13. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 15<sup>th</sup> with the Commission and ORS.

(SEAL)